

CHAPTER 122

STATE AND COUNTY OFFICERS AND EMPLOYEES RETIREMENT SYSTEM

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(b) Notwithstanding any provision to the contrary contained in this chapter, s. 122.34 shall apply with respect to sheriffs and high hazard deputy sheriffs, as provided for herein, to the extent that the provisions of such sections are at variance or in conflict with the sections otherwise applicable, and with respect to members who are classified as “high hazard” members as hereinafter defined, the provisions of ss. 122.03, 122.08, 122.27, and 122.28 shall be subject to the provisions of s. 122.34.

(5) Notwithstanding any provision contained herein to the contrary, the provisions of this chapter relating to age for retirement under s. 122.08 shall be subject to amendment or modification by subsequent legislation at any time and all other provisions of this chapter relating to the administration of the system or to the duties, rights, privileges, requirements, and benefits of those persons who become members on or after July 1, 1963, shall be subject to amendment, modification, deletion or substitution by act of the 1965 Legislature of the state and all such legislation shall apply retroactively to July 1, 1963, with respect to those persons who become members on or after July 1, 1963; provided, however, that such legislation shall not set the age for retirement, as specified in s. 122.08(1) to exceed the age of 65 years, nor shall such legislation affect any benefit which becomes payable to, or with respect to, such members prior to July 1, 1965.

History.—ss. 1, 25, 26, ch. 29801, 1955; s. 1, ch. 57-382; ss. 1, 2, ch. 63-555; s. 1, ch. 67-447; s. 1, ch. 69-127; s. 28, ch. 71-355; s. 779, ch. 95-147; s. 22, ch. 2014-17.

122.02 Definitions.—The following words and phrases as used in this chapter shall have the following meaning unless a different meaning is plainly required by the context:

(1) “State and county officers and employees” shall include all full-time officers or employees who receive compensation for services rendered from state or county funds, or from funds of drainage districts or mosquito control districts of a county or counties, or from funds of the State Board of Administration or from funds of closed bank receivership accounts or from funds of any state institution or who receive compensation for employment or service from any agency, branch, department, institution or board of the state, or any county of the state, for service rendered the state or county from funds from any source provided for their employment or service regardless of whether the same is paid by state or county warrant or not; provided that such compensation in whatever form paid shall be specified in terms of fixed monthly salaries by the employing state or county agency or state or county official and shall not include amounts allowed for professional employees for special or

particular service or for subsistence or travel expenses; provided further the department shall prescribe appropriate procedure for contribution deduction out of such compensation in accordance with the provisions of this chapter, provided further that such officers and employees defined herein shall not include those officers and employees excepted from the provisions by s. 122.18 of this law.

(2) “Average final compensation” shall mean the average salary of the 10 best contributing years of the last 15 years prior to retirement, or the career average since July 1, 1945, whichever is greater. A year shall be 12 running months. In the event that an officer or employee has not contributed to the retirement trust fund for at least 10 years, then the average final compensation shall mean the average salary of the last 10 years’ service.

(3) “Salary” shall mean the fixed monthly compensation paid officers and employees, and where officers’ or employees’ compensation is derived from fees set by statute, salary shall be the total cash remuneration received from such fees. Under no circumstances shall salary include fees paid professional persons for special or particular services. However, salary for all plan years beginning on or after July 1, 1990, shall not include any amounts in excess of the compensation limitation (originally \$200,000) established by s. 401(a)(17) of the Internal Revenue Code prior to the Omnibus Budget Reconciliation Act of 1993, which limitation shall be adjusted for changes in the cost of living since 1989, in the manner provided by s. 401(a)(17) of the Internal Revenue Code of 1991. This limitation, which has been part of the State and County Officers’ and Employees’ Retirement System since plan years beginning on or after July 1, 1990, shall be adjusted as required by federal law for qualified government plans.

(4)(a) In determining the aggregate number of years of service of any officer or employee, the time of military service between 1939 and 1946 by the employee on leave of absence shall be added to the years of state or county service. Credit for any other military service shall not exceed 4 years; provided that those individuals who were employed by the War Manpower Commission in Florida (or on military leave from the War Manpower Commission) prior to November 16, 1946, by the National Reemployment Service in Florida subsequent to June 30, 1933, the ¹Florida State Employment Service subsequent to June 30, 1935, or in the readjustment allowance or employment service departments of the Veterans Administration in Florida between July 1, 1944, and January 1, 1950, and who continued in employment with the state or any county without more than one interruption in the performance of service, this

interruption not to exceed 5 years, shall be entitled to credit for continuous service for all such employment with the named agency or department, and shall have such time added to their aggregate number of years of service; provided further, that any such employee claiming such credit shall pay into the State and County Officers and Employees' Retirement Trust Fund an amount equivalent to the amount which would have been placed in the fund had such employee been paying into the fund from July 1, 1945, on the basis of the wages paid to such employee by the Federal Government, plus interest thereon at the rate of 3 percent compounded annually until July 1, 1975, and thereafter at the rate of 6.5 percent interest compounded annually until date of payment; and provided further, that such persons shall furnish proper proof from the governmental agency showing the payment of wages for such service and that such persons are not claiming and have not been allowed credit for such service in a federal or any other retirement system, except those persons formerly with the War Manpower Commission who, prior to 1961, received federal service credit. Leave of absence shall be construed to cover any officer or employee of the state or county who was serving as such during the calendar year of 1940, or any time subsequent thereto, and who resigned his or her employment in time of war or national emergency to enter military service and who thereafter returned to that former employment with the state or county as soon as possible after release from military service.

(b) Any person claiming prior service credit under the provisions of this subsection shall pay into the State and County Officers and Employees' Retirement Trust Fund a contribution equal to 5 percent of the earnings received during the period being claimed, plus 3 percent interest thereon compounded annually, such interest to commence and run from July 1, 1945, with respect to service prior thereto and from dates of employment with respect to service subsequent to June 30, 1945, and such interest shall continue to be figured at the rate of 3 percent until July 1, 1975, on which date and thereafter such interest shall be figured at the rate of 6.5 percent interest, compounded annually until date of payment.

(5) If compensation for accumulated annual leave is due and payable and is paid to the surviving spouse and the necessary contribution is made to the retirement trust fund, time for accumulated annual leave, not to exceed 30 working days, shall be added to the aggregate number of years service and to the member's age, provided such time is needed to make the member eligible for retirement benefits at the time of death, in which event the retirement benefits shall be computed on the basis of the retirement age specified

in s. 122.08(1) and (2)(a) if the member died prior to July 1, 1963, or on the basis of a retirement age of 65 years if the member died on or after July 1, 1963. Otherwise aggregate number of years of service shall mean the total number of years, and fractional parts of years, of service of any officer or employee omitting intervening years and fractional parts of years, when such officer or employee may not be employed by the state or county. Provided that any nonacademic employee of a school board shall receive a full year's service credit for all years under the following conditions:

(a) Provided all necessary contributions have been made to the retirement trust fund.

(b) Provided the employee is employed and receives salary for the full school year.

(6) "Department" means the Department of Management Services.

History.—s. 2, ch. 29801, 1955; ss. 1-3, ch. 57-364; s. 1, ch. 57-813; s. 2, ch. 61-119; s. 1, ch. 61-469; s. 1, ch. 61-422; s. 1, ch. 63-453; s. 3, ch. 63-555; s. 8, ch. 65-484; ss. 1, 2, ch. 67-412; ss. 31, 35, ch. 69-106; s. 39, ch. 71-377; s. 1, ch. 73-326; s. 3, ch. 74-328; s. 62, ch. 92-279; s. 55, ch. 92-326; s. 780, ch. 95-147; s. 3, ch. 95-154; s. 12, ch. 96-368; s. 54, ch. 99-255.

Note.—See ss. 2 and 15, ch. 83-174, which merge the Florida State Employment Service into the newly established Division of Labor, Employment, and Training of the Department of Labor and Employment Security and provide for a "state public employment service" within that division. The division was renamed the Division of Jobs and Benefits by s. 1, ch. 95-345, and deleted by s. 2, ch. 99-240. Section 69, ch. 2002-194, repealed s. 20.171, which created the Department of Labor and Employment Security.

122.03 Contributions; participants; prior service credit.—

(1)(a) From and after July 1, 1955, the officer or board paying salaries to officers or employees entitled to the benefits of this law shall deduct 6 percent from each installment of salary of each officer or employee so long as such officer or employee shall hold office, or be employed and said amount so deducted shall be deposited in a special trust fund hereby established in the State Treasury, to be known as the "State and County Officers and Employees' Retirement Trust Fund." Provided further, whenever any county now or hereafter authorized by law to take over and perform the functions of a municipality, exercises such power and takes over functions heretofore performed by a municipality, and as a result thereof municipal employees become county employees and are paid salaries from county funds, such employees who are members and continue to be members of a municipal retirement system shall not be eligible to participate in the State and County Officers and Employees' Retirement Trust Fund. Such employees, whose pension or retirement rights are otherwise preserved, who by merger, transfer or assignment of governmental units or functions, become county

employees, shall not lose their municipal pension or retirement rights, or any reserves accrued to their benefit during their period of employment with a municipality and the county is authorized to pay into such municipal retirement system during the period that such employees remain as county employees the sums of money previously paid by the municipality for the benefits of such employees, and may make appropriate deductions from the employees' salaries to preserve their retirement benefits. Provided further, such employees who by merger, transfer or assignment of government units or functions, become county employees shall have 6 months from the date they become county employees to elect to remain in the retirement system of which they were members as municipal employees or become compulsory members of the State and County Officers and Employees' Retirement System. Such employees becoming compulsory members of the State and County Officers and Employees' Retirement System shall be classed as new members of the State and County Officers and Employees' Retirement System and any service rendered by such employees as municipal officers or employees, prior to becoming compulsory members of the State and County Retirement System, shall not be allowed.

(b) This subsection shall not apply to members covered under s. 122.32, when transferred to state employment by statute on or after July 1, 1967. Should such employees be transferred by statute, they shall be transferred from division A to division B with service credit under division A up until date of transfer and service credit under division B thereafter.

(2) Any officer or employee who held office or was employed by the state or a county of the state on July 1, 1945, or October 1, 1950, and has been holding office or has been continuously employed from April 1, 1955:

(a) May receive credit for prior service rendered subsequent to 1945;

(b) Credit for service rendered prior to July 1, 1945, shall be continuous except that one period of absence not more than 5 years shall be allowed, and in computing such service credit, the period of absence shall not be creditable service.

(c) Provided any person receiving prior service credit under paragraph (a) or paragraph (b) pays into the retirement trust fund the amount he or she would have paid had he or she been a member since July 1, 1945, plus interest compounded annually from date of service to date of payment at the rate of 3 percent for any period of time before July 1, 1975, and at the rate of 6.5 percent compounded annually for any period of time after and including July 1, 1975; however, no officer or employee shall make contributions under this

section for less than 10 years or for his or her total service being claimed, whichever is less.

(3) Any officer or employee claiming prior service under subsection (2) of this section shall make the required payment on or before the time of actual retirement.

(4) Any officer or employee who formerly rejected the provisions of the retirement law may elect to become a member of the retirement system at any time. Any person becoming a member under this subsection shall not receive any prior service credit.

(5) Any state or county officer or employee who prior to becoming a state or county officer or employee was a member of the Department of Public Safety Pension Fund, and who is not receiving retirement benefits under said fund, shall be a compulsory member of the State and County Officers and Employees' Retirement System, and if any such state or county officer or employee has not received a refund from the Department of Public Safety Pension Fund, the amount he or she has paid into said fund, plus the amount the state has paid into said fund to match the employee's payment, shall be transferred from the Department of Public Safety Pension Fund to the State and County Officers and Employees' Retirement Trust Fund, or if such person has received a refund from the Department of Public Safety Pension Fund, then any such state or county officer or employee shall, within 24 months from the time such person becomes a state or county officer or employee, or within 24 months from July 1, 1963, whichever is the later date, pay into the State and County Officers and Employees' Retirement Trust Fund 5 percent of the salary he or she has received from the Department of Public Safety, beginning with July 1, 1945, to June 30, 1955, inclusive and from July 1, 1955, 6 percent of the salary he or she has received from the Department of Public Safety, plus 3 percent per annum interest thereon. Thereupon the total time spent with the Department of Public Safety since its creation in chapter 19551, Acts of 1939, shall be added to and computed with such person's service as a state or county officer or employee. No state or county officer or employee who is receiving benefits under the Department of Public Safety Pension Fund shall be eligible to become a member of the State and County Officers and Employees' Retirement Trust Fund.

(6) Any officer or employee who held office or was employed by the state or a county of the state continuously from May 1, 1959, and who has not previously received credit for, or is not eligible to claim credit for, prior years of service under subsection (2); or any officer or employee who holds office or is employed by the state or a county of the state on June 1, 1961, and is continuously employed; or any officer

or employee who holds office or is employed by the state or county of the state after June 1, 1961, and who is continuously employed for 3 years, during which period of time no back payments may be made:

(a) May claim credit for all prior years of service under the conditions hereinafter set forth.

(b) Credit for service prior to July 1, 1955, may be allowed, provided a contribution of 5 percent of all salary received in the period being claimed, plus interest compounded annually from date of service to date of payment at the rate of 3 percent for any period of time before July 1, 1975, and at the rate of 6.5 percent for any period of time after and including July 1, 1975, is made to the State and County Officers and Employees' Retirement Trust Fund on or before the time of actual retirement.

(c) Credit for service subsequent to July 1, 1955, may be allowed, provided a contribution of 6 percent of all salary received in the period being claimed, plus interest compounded annually from date of service to date of payment at the rate of 3 percent for any period of time before July 1, 1975, and at the rate of 6.5 percent for any period of time after and including July 1, 1975, is made to the State and County Officers and Employees' Retirement Trust Fund on or before the time of actual retirement.

(d) Prior service allowance may be made only for those periods in which state or county records of service and salary are available, or at least three affidavits and such other information as might be required by the department to meet the provisions of this law.

(7) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon his or her return to active employment with a covered employer for 1 calendar month or upon his or her approval for disability retirement in accordance with s. 122.09, receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, no member may receive retirement credit for any such period occurring after the earlier of the date of maximum medical improvement as defined in s. 440.02 or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required employee and employer retirement contributions based on the member's rate of monthly compensation immediately prior to receipt of workers' compensation payments.

(8) Any surviving spouse of a county official or former county official, who was formerly employed full time in the office of the county official and who is presently employed by the said county official or is a county official of any such county and who did not receive compensation for a period of more than 10 years as such employee, may receive credit for retirement purposes as provided for in this chapter by:

(a) Contributing to the said retirement trust fund on a salary computed on the basis of one-third of the compensation received by the said county official for the period of time the said employee did not receive any compensation, and interest on said contribution shall be paid at the rate of 3 percent per annum from July 1, 1945.

(b) Submitting affidavits from two county officials or former county officials from any such county to substantiate said employment.

(9) The surviving spouse or other dependent of any member whose employment is terminated by death shall, upon application to the department, be permitted to pay the required contributions for any service performed by the member which could have been claimed by the member at the time of death. Such service shall be added to the creditable service of the member and shall be used in the calculation of any benefits which may be payable to the surviving spouse or other surviving dependent.

History.—s. 3, ch. 29801, 1955; s. 1, ch. 57-350; ss. 1, 2, ch. 57-363; s. 1, ch. 57-1986; s. 1, ch. 59-203; s. 1, ch. 59-285; s. 1, ch. 59-303; s. 2, ch. 61-119; s. 1, ch. 61-291; s. 1, ch. 61-434; s. 9, ch. 63-555; s. 8, ch. 65-484; s. 8, ch. 69-82; ss. 31, 35, ch. 69-106; s. 1, ch. 69-124; s. 1, ch. 69-128; s. 1, ch. 69-1753; s. 2, ch. 72-334; s. 3, ch. 72-345; s. 3, ch. 72-347; s. 4, ch. 74-328; s. 58, ch. 79-40; s. 12, ch. 92-122; s. 63, ch. 92-279; s. 55, ch. 92-326; s. 781, ch. 95-147; s. 4, ch. 95-154; s. 57, ch. 99-2; s. 55, ch. 99-255; s. 34, ch. 2001-266; s. 8, ch. 2002-194.

122.04 Compulsory participation.—The provisions of this law shall be compulsory as to all persons who enter the employment of the state or county of the state on or after July 1, 1947, and there shall be deducted from the salary of every officer and employee who thereafter enters the employment of the state or county of the state 6 percent as provided for in s. 122.03. All persons entering the service of the state or county of the state after July 1, 1947, shall be considered new employees or new officers and no prior service of such employees or officers shall be computed as part of their aggregate number of years of service under this law, except employees in military service on leave of absence who return immediately from military service to the service of the state or county of the state. Provided further that any person who is employed after the effective date of this chapter by a county having a retirement system shall be a compulsory member of this retirement system unless

he or she becomes a member of its local retirement system.

History.—s. 4, ch. 29801, 1955; s. 782, ch. 95-147.

122.05 Legislator services included.—

(1) The aggregate days of service heretofore or hereafter rendered the State Legislature as a member of the Senate or House of Representatives by any participants of the State and County Officers and Employees' Retirement System shall be computed as a part of the aggregate years of state or county service of such participant in said retirement system, and it shall be the duty of state officials administering the provisions of said system to allow any such participant such legislative service, together with other service rendered by such participant to the state or county.

(2) The department and state officials administering said retirement system shall make the contribution deductions required by law from the compensation hereafter received by any of the said participating members of the Legislature for service rendered the State Legislature in the same manner as in the case of other state employment.

(3) Any member of the Legislature on the effective date of this chapter may claim credit for all prior service as such member by paying into the State and County Officers and Employees' Retirement Trust Fund the required amount as computed by the division, plus 3-percent interest compounded annually until July 1, 1975, and thereafter at the rate of 6.5-percent interest compounded annually until date of payment and upon making such payment shall be entitled to receive credit for his or her full terms as such legislator. Provided further that any member of the Legislature who previously had vested rights under the retirement law would not have his or her benefits accumulated at the time he or she takes office as such legislator reduced by virtue of such service as a legislator.

(4) Any member of the Legislature who had vested rights under the retirement law, prior to becoming a member of the Legislature, may use the average salary of the best 10 years of the last 15 years of creditable service earned prior to becoming a member of the Legislature.

(5) Any member of the Legislature who is a member of any state and county retirement system on the effective date, or any future member of the Legislature, may pay into any state and county retirement trust fund, based on his or her prior or future service, 45 percent of his or her salary for the first 10 years of service, 60 percent of his or her salary for the second 10 years, and 75 percent of his or her salary for the third 10 years, said salary to be considered during his or her total service, \$100 per month. In computing the retirement benefit for such members of

the Legislature, the average final compensation shall be the amount that a 6-percent contribution would have applied to produce the contribution required above.

History.—s. 5, ch. 29801, 1955; s. 1, ch. 59-461; s. 2, ch. 61-119; s. 1, ch. 67-581; ss. 31, 35, ch. 69-106; s. 5, ch. 74-328; s. 783, ch. 95-147; s. 56, ch. 99-255.

122.051 Eligibility of retired state employee for Legislature; compensation.—Any retired state employee who is presently drawing retirement benefits under any state retirement system may, as any other citizen, serve in the Legislature without affecting in any way his or her retirement status or the receipt of retirement funds while a member of the Legislature. Such person may be paid the salary of a legislator, and per diem and mileage in connection with his or her official legislative duties in addition to his or her retirement benefits during the person's term of legislative service except that service as a legislator after retirement shall not increase retirement benefits.

History.—s. 1, ch. 65-476; s. 784, ch. 95-147.

122.06 Legislative employee services included.—

(1) Aggregate days of attaché service heretofore or hereafter rendered the State Legislature by any participant of the State and County Officers and Employees' Retirement System shall be computed as a part of the aggregate years of state service of such participant in said retirement system, and it shall be the duty of state officials administering the provisions of said system to allow any such participant such legislative attaché service, together with other service rendered by such participant to the state or county.

(2) The department and other state officials administering said retirement system shall make the contribution deductions required by law from the compensation hereafter received by any of the said participating attaches for service rendered the State Legislature in the same manner as in the case of other state employment.

History.—ss. 6, 7, ch. 29801, 1955; ss. 31, 35, ch. 69-106; s. 57, ch. 99-255.

122.061 Hospital districts and county hospital corporations; officers and employees included.—

(1) Boards of hospital districts and county hospital corporations may elect to bring employees of such districts or corporations under the provisions of the retirement law. Once this election is made it may not be revoked and all present and future employees shall be compulsory members of the State and County Officers and Employees' Retirement System.

(2) All boards of hospital districts and county hospital corporations who now have officers and employees participating in the State and County

Officers and Employees' System will continue to have such coverage as provided by this chapter. The presumption being that such boards have elected to come under the law.

(3) The rights of any officer or employee who is a member of the State and County Officers and Employees' Retirement System or who is receiving benefits under the provisions of this chapter, by virtue of Attorney General's opinion and Comptroller's rulings rendered prior to the declaratory decree of the Circuit Court of the Second Judicial Circuit of Florida, March 1957, shall not be impaired or reduced.

History.—ss. 1-4, ch. 57-47; s. 1, ch. 67-612.

122.07 Seasonal state employment included; time limit and procedure for claiming.—

(1) Any seasonal state employee who works for and draws compensation from the state or any of its departments for a period of more than 6 months during the fiscal year, that is, from July 1 of any year to June 30 of the following year, inclusive, but who works the remainder or a part of such fiscal year in the same or a similar capacity for another state or department thereof, may receive credit for the actual time employed by another state or department thereof, provided that such employee shall comply with the conditions hereinafter specified.

(2) Any state employee as described in subsection (1) in the classification set forth in s. 122.01 may elect to receive credit as a state employee under the State and County Officers and Employees' Retirement System by providing to the department a statement from the state in which he or she was employed, listing days employed and monthly earnings and such other information as may, in the opinion of the department, be necessary or appropriate in the carrying out of this section. Credit shall be granted upon payment to the department by such employee of an amount equal to the total retirement contribution that would have been required had the member worked in this state during the period based on the salary drawn by such employee during his or her last full month of employment by the state or any department thereof for each month during said fiscal year for which such employee was not employed by the state or any department thereof, but was employed by some other state, plus interest compounded annually each June 30 from the date of the service in another state to the date of payment at the rate of 4 percent until July 1, 1975, and 6.5 percent thereafter. The member shall have until his or her date of retirement to claim and purchase credit for such employment in another state.

History.—s. 8, ch. 29801, 1955; s. 2, ch. 61-119; ss. 31, 35, ch. 69-106; s. 1, ch. 78-279; s. 27, ch. 79-164; s. 1, ch. 87-29; s. 21, ch. 91-45; s. 13, ch. 92-122; s. 785, ch. 95-147; s. 58, ch. 99-255.

122.08 Requirements for retirement; classifications.—There shall be two retirement classifications for all state and county officers and employees participating herein as hereafter provided in this section:

(1)(a) Any state or county officer or employee who has attained normal retirement age, which shall be age 60 for a person who had become a member prior to July 1, 1963, and age 62 for a person who had or shall become a member on or after July 1, 1963, and has accumulated at least 10 years' service in the aggregate within the contemplation of this law, and who has made or makes contributions to the State and County Officers and Employees' Retirement Trust Fund for 5 or more years as prescribed in this law, may voluntarily retire from office or employment and be entitled to receive retirement compensation, the amount of which shall be 2 percent for each year of service rendered, based upon the average final compensation, payable in equal monthly installments, upon his or her own requisition. Requisition requirements shall be set by the department.

(b) Notwithstanding any provision of this chapter to the contrary, effective January 1, 1993, the normal retirement age for a member under this chapter is attained upon the member's completion of 30 years of creditable service in the aggregate.

(2)(a) Any state or county officer or employee who has attained the age of 55 or more and has accumulated at least 10 years' service in the aggregate within the contemplation of this law and who has made or makes contributions to the State and County Officers and Employees' Retirement Trust Fund for 5 or more years as prescribed by this law but who is not eligible to retire in accordance with subsection (1) may elect to retire and receive a reduced benefit, which would be the actuarial equivalent of the benefits provided in paragraph (1)(a).

(b) Any county officer or employee who has served as sheriff or a full-time deputy sheriff for the last 10 years or more of employment and has attained the age of 50 or more and accumulated at least 10 years' service in the aggregate within the contemplation of this law, and who has made or makes contributions to the State and County Officers and Employees' Retirement Trust Fund for 5 or more years, as prescribed by this law, but who is not eligible to retire in accordance with subsection (1), may elect to retire and receive a reduced benefit, which would be the actuarial equivalent of the benefits provided in paragraph (1)(a).

(3) Any state or county officer or employee shall have the right at any time prior to receipt of his or her first monthly installment of retirement compensation to elect to receive a reduced retirement compensation with the provision that if such officer or employee dies

after retirement compensation installments have commenced the excess if any of his or her total contributions made to the retirement trust fund, without interest, over the total retirement compensation received by him or her shall be paid in accordance with the beneficiary designation of this law. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to him or her.

(4)(a) Any state or county officer or employee shall have the right at any time prior to receipt of his or her first monthly installment of retirement compensation to elect to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw such reduced retirement compensation, or one-half thereof if so designated, so long as such spouse shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to such officer or employee. Any state or county officer or employee who becomes eligible for retirement and continues to hold office or be employed shall be construed to have selected the option herein which will afford the surviving spouse the greatest amount of benefits. Should such officer or employee die before retiring, his or her surviving spouse shall be entitled to receive either the accumulated contributions of such officer or employee at the date of death or the reduced retirement compensation to which the surviving spouse would have been entitled under such option, calculated on the assumption that such officer or employee retired on the date of death; provided, that for all those persons who become members of the retirement system on or after July 1, 1963, the amount of retirement compensation otherwise payable to the member at the date of death shall be determined on the basis of a retirement age of 62 years. Any officer or employee shall have the right at the time of retirement to change the option so provided; and, should the option be changed or not at the time of retirement, such option shall be effective immediately upon retirement and thereafter may not be revoked.

(b) A member who elects an option in paragraph (a) shall on a form provided for that purpose designate his or her spouse as beneficiary to receive the benefits which continue to be payable upon the death of the member. After such benefits have commenced under an option in paragraph (a), the retired member may change the designation of his or her spouse as beneficiary only twice. If such a retired member remarries and wishes to make such a change, he or she may do so by filing with the department a notarized change of spouse designation form and shall notify the former spouse in writing of such change. Upon receipt

of a completed change of spouse designation form, the department shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. The consent of a retired member's formerly designated spouse as beneficiary to any such change shall not be required.

(5) Tables for computing the actuarial equivalent shall be approved by the department.

(6) Any person retiring under the disability provision of this chapter shall not be entitled to the options of subsection (4).

(7) No state or county official or employee who has a shortage in his or her accounts may retire or receive any benefits under this chapter so long as such shortage exists.

(8) Any member of the retirement system whose rights have been preserved under s. 122.01(3) and who has had 30 years of service may exercise the option provided for in subsection (4) as it applies to persons who are eligible for normal retirement benefits.

(9) Notwithstanding any other provision in this chapter to the contrary, the following provisions shall apply to any officer or employee who has accumulated at least 10 years of service and dies:

(a) If the deceased member's surviving spouse has previously received a refund of the member's contributions made to the retirement trust fund, such spouse may pay to the department an amount equal to the sum of the amount of the deceased member's contributions previously refunded and interest at 3 percent compounded annually on the amount of such refunded contributions from the date of refund until July 1, 1975, and thereafter at the rate of 6.5 percent interest compounded annually to the date of payment to the department, and by so doing be entitled to receive the monthly retirement benefit provided in paragraph (c).

(b) If the deceased member's surviving spouse has not received a refund of the deceased member's contributions, such spouse shall, upon application to the department, receive the monthly retirement benefit provided in paragraph (c).

(c) The monthly benefit payable to the spouse described in paragraph (a) or paragraph (b) shall be the amount which would have been payable to the deceased member's spouse, assuming that the member retired on the date of death and had selected the option in subsection (4) which would afford the surviving spouse the greatest amount of benefits, such benefit to be based on the ages of the spouse and member as of the date of death of the member. Such benefit shall commence on the first day of the month following the payment of the aforesaid amount to the

department, if paragraph (a) is applicable, or on the first day of the month following the receipt of the spouse's application by the department, if paragraph (b) is applicable.

(10) Upon the death of a retired member or beneficiary receiving monthly benefits under this chapter, the monthly benefits shall be paid through the last day of the month of death and shall terminate, or be adjusted, if applicable, as of that date in accordance with the optional form of benefit selected at the time of retirement.

History.—s. 9, ch. 29801, 1955; ss. 3-5, ch. 57-363; s. 1, ch. 57-210; s. 1, ch. 59-465; s. 2, ch. 61-119; s. 4, ch. 63-555; ss. 1, 2, 8, ch. 65-484; s. 8, ch. 69-82; ss. 31, 35, ch. 69-106; s. 1, ch. 69-132; s. 1, ch. 72-330; ss. 6, 10, ch. 74-328; s. 5, ch. 80-130; s. 7, ch. 85-246; s. 1, ch. 92-139; s. 786, ch. 95-147; s. 59, ch. 99-255; s. 35, ch. 2001-266.

122.09 Disability retirement; medical examinations.—Whenever any officer or employee of the state or county of the state has service credit as such officer or employee for 10 years within the contemplation of this law, the last 5 years of which, except for a single break not to exceed 1 year, must be continuous, unbroken service and who is regularly contributing to the State and County Officers and Employees' Retirement Trust Fund and shall while holding such office or employment become permanently and totally disabled, physically or mentally, or both, from rendering useful and efficient service as such officer or employee, such officer or employee may retire from his or her office or employment, and upon such retirement the officer or employee shall be paid, so long as the permanent and total disability continues, on his or her own monthly requisition, from the State and County Officers and Employees' Retirement Trust Fund hereinafter established, retirement compensation as provided in s. 122.08; provided that no officer or employee retiring under this section shall receive less than 50 percent of his or her average final compensation not to exceed \$75. No officer or employee of the state and county of the state shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the Governor for that purpose, and found to be disabled in the degree and in the manner specified in this section. Any officer or employee retiring under this section shall be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons to be selected by the Governor for that purpose and paid from the retirement trust fund herein provided for, at such time as the Department of Management Services shall direct to determine if such total disability has continued and in the event it be disclosed by said examination that said

total disability has ceased to exist, then such officer or employee shall forthwith cease to be paid benefits under this section. Reference to s. 122.08 is for the purpose of computing benefits only. Any person heretofore retired under this section shall be eligible to qualify for the minimum benefits provided herein; however, minimum benefits shall not be paid retroactively.

History.—s. 10, ch. 29801, 1955; s. 4, ch. 57-364; s. 2, ch. 61-119; ss. 2, 3, ch. 67-371; s. 1, ch. 69-121; s. 1, ch. 69-326; ss. 31, 35, ch. 69-106; s. 14, ch. 92-122; s. 64, ch. 92-279; s. 55, ch. 92-326; s. 787, ch. 95-147.

122.10 Separation from service; refund of contributions.—

(1) Should any officer or employee leave the service of the state before accumulating aggregate time of 10 years toward retirement, such officer or employee shall be entitled to a refund of 100 percent of his or her contributions made to the retirement trust fund without interest, provided however that any such officer or employee may leave such contributions in said retirement trust fund for a period not exceeding 5 years pending reemployment, and upon reemployment by the state or county within those 5 years receive credit for such prior service. Any such officer or employee who fails to be reemployed by the state or a county of the state within those 5 years shall be refunded 100 percent of his or her contributions to the retirement trust fund, without interest, and all prior service credit shall be forfeited should he or she be reemployed at a later date. Should any officer or employee who has 10 or more years service within the contemplation of this law leave the service of the state and county, such officer or employee may leave said contributions in the retirement trust fund and receive the same retirement benefits as provided for current employees in s. 122.08, provided however that such officer or employee shall have made contributions as required by this law, or such officer or employee may elect to accept a refund of 100 percent of his or her contributions to the fund, without interest. Any officer or employee who accepts such refund shall be forever barred from receiving prior service credit under the provisions of this law. No officer or employee who has received benefits under this law shall be entitled to a refund.

(2) Any former members of the state or county retirement systems established by former chapters 121 and 134, that terminated their service after 10 or more years of service and received a refund of 50 percent of their retirement contributions may, upon written request to the division, receive a refund of any balance credited to their account provided they are not members of the state and county retirement system under this chapter.

(3) Any person who hereafter elects to receive retirement benefits under s. 112.05, shall not be entitled to the retirement benefit of this chapter, except for the refund of his or her contributions to the retirement trust fund as provided in this section; likewise any person who elects to receive retirement benefits under this chapter shall thereby become ineligible to receive retirement benefits under s. 112.05.

(4) Should any officer or employee elect to receive a refund as provided in this section, his or her application for refund shall be submitted in the manner prescribed by the regulations adopted by the department and shall accompany the payroll certification, submitted to the department, on which he or she was last paid prior to termination. The department shall pay the entire refund due within 45 days after the first day of the month subsequent to receipt of such application for refund and said payroll certification.

(5) Notwithstanding any other provision in this chapter to the contrary, any officer or employee who has accumulated an aggregate of 25 or more years of service and terminates his or her employment and elects to receive a refund of his or her contributions made to the retirement trust fund in accordance with this section may, at any time prior to July 1, 1970, pay to the division an amount equal to the sum of: the amount of his or her contributions previously refunded and interest at 3 percent compounded annually on the amount of his or her refunded contributions from the date of refund to the date of payment to the division. Upon the payment of such amount, the former member of the retirement system shall be reinstated and shall receive the monthly retirement benefit to which he or she is entitled under this section, such benefit to commence on the latter of the first day of the month following the payment by the reinstated member of the aforesaid amount to the division or the date he or she otherwise would have been entitled to such benefits. The division, at its discretion, may require that such retirement benefits be paid under one of the optional forms of payment (described in s. 122.08) as chosen by the division.

History.—s. 11, ch. 29801, 1955; s. 2, ch. 59-461; s. 2, ch. 61-119; s. 7, ch. 63-555; s. 1, ch. 67-285; ss. 31, 35, ch. 69-106; s. 1, ch. 69-133; s. 788, ch. 95-147; s. 60, ch. 99-255.

122.11 Reemployment after refund.—Any state or county officer or employee whose contributions have been refunded as provided in s. 122.10 and who is subsequently reemployed by the state or a county of the state shall be treated as those persons who enter employment of the state or a county of the state the first time as provided in s. 122.03; provided, however, if any former member complies with s. 122.03(6) and

receives service credit for 20 or more years for service rendered prior to June 1, 1961, such member shall not lose his or her rights under s. 122.01(3).

History.—s. 12, ch. 29801, 1955; s. 1, ch. 67-577; s. 789, ch. 95-147.

122.12 Designation of beneficiary; death of participant; forfeiture of contributions after benefits paid; survivor benefits.—

(1) Any officer or employee may file, in writing, a designation of beneficiary and it shall be the duty of the department to refund 100 percent, without interest, of the contributions made to the retirement trust fund by such deceased officer or employee to such designated beneficiary. The officer or employee shall have the privilege of changing, in writing, the designated beneficiary at any time. Upon failure to designate a beneficiary, the refund shall be made to the persons in the same order as designated in s. 222.15, for wages due deceased employees. If the deceased officer or employee has received any benefits under this law, no refund shall be made unless such officer or employee has elected to accept benefits under s. 122.08(3) or (4).

(2) Provided further any heir who received a refund under s. 10 of chapter 22938, Laws of 1945, or s. 10 of chapter 22831, Laws of 1945, shall be entitled to receive any accumulated retirement contributions credited to the deceased officer or employee's account.

History.—s. 13, ch. 29801, 1955; s. 5, ch. 57-364; s. 2, ch. 61-119; ss. 31, 35, ch. 69-106; s. 61, ch. 99-255.

122.15 Benefits exempt from taxes and execution.—

(1) The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are hereby exempted from any state, county or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

(2) This subsection shall have no effect upon this section except that the department may, upon written request from the retired member, deduct premiums for group hospitalization insurance from the retirement benefit paid such retired member.

History.—s. 16, ch. 29801, 1955; s. 1, ch. 59-305; ss. 31, 35, ch. 69-106; s. 63, ch. 99-255.

122.16 Employment after retirement.—

(1) Any person who is retired under this chapter, except under the disability retirement provisions of ss. 122.09 and 122.34, may be employed by an employer that does not participate in a state-administered

retirement system and may receive compensation from such employment without limiting or restricting in any way the retirement benefits payable to such person.

(2)(a) Any person retired under this chapter, except under the disability retirement provisions of ss. 122.09 and 122.34, may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without limitation, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to his or her employer and to the department; and his or her retirement benefits shall be suspended for the balance of the 12-month limitation period. Any person employed in violation of this subsection and any employing agency which knowingly employs or appoints such person without notifying the department to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by such person while he or she is reemployed during this reemployment limitation period shall be repaid to the retirement trust fund, and his or her retirement benefits shall remain suspended until such repayment has been made. Any benefits suspended beyond the reemployment limitation period shall apply toward the repayment of benefits received in violation of the reemployment limitation.

(c) The employment by an employer of any retiree of a state-administered retirement system shall have no effect on the average final compensation or years of creditable service of such retiree. Prior to July 1, 1991, upon employment of any person, other than an elected officer as provided in s. 121.053, who has been retired under a state-administered retirement program, the employer shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for a regular member of the Florida Retirement System. Effective July 1, 1991, contributions shall be made as provided in s. 121.122 for renewed membership.

(d) The limitations of this subsection apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

History.—s. 17, ch. 29801, 1955; s. 6, ch. 57-364; s. 1, ch. 57-803; s. 1, ch. 57-1982; s. 2, ch. 61-119; s. 8, ch. 65-484; ss. 31, 35, ch. 69-106; s. 1, ch. 72-335; s. 3, ch. 72-345; s. 3, ch. 80-126; s. 7, ch. 81-307; s. 21, ch. 84-266; s. 20, ch. 90-274; s. 15, ch. 92-122; s. 790, ch. 95-147; s. 64, ch. 99-255.

122.18 Certain officers and employees not covered.—This chapter shall not apply to justices of the Supreme Court or judges of the circuit court who are members of another state retirement system applicable to Supreme Court judges or circuit judges, nor shall it apply to members of the Teachers' Retirement System or members of the Department of Public Safety Retirement System and shall not operate to repeal ss. 125.101, 138.14, 138.19, 112.05, 238.01-238.16, and 321.02-321.23, nor to affect the rights of any person enjoying the benefits or entitled to enjoy the benefits of such sections.

History.—ss. 19, 20, ch. 29801, 1955.

Note.—Repealed by s. 20, ch. 97-180.

122.19 Change of positions; election of retirement systems; exceptions.—

(1)(a) Any person who is a participant in any state or county retirement system, who changes his or her position or employment, or who is reclassified so that under any existing law such person would participate in a different retirement system, may continue to participate and come under the same retirement system in which he or she participated or came under before changing positions or being reclassified so long as such person remains in the employ of the state or county and continues to make the contributions required by law.

(b) Any member of the Duval County Employees Pension Fund who becomes an elected state or county official, certified by the Department of State, may become a member of the State and County Officers and Employees' Retirement System as a new member upon assuming office, however, no prior service shall be allowed unless such official withdraws from the Duval County Employees Pension Fund, the same to be certified by Duval County, and complies with s. 122.03.

(2) The provisions of this section shall supersede any existing law relating to state and county retirement systems or pensions, provided nothing herein shall be construed to apply to state Supreme Court justices, or circuit judges who are members of another state retirement system applicable to Supreme Court justices or circuit judges, nor to members of the Department of Public Safety Retirement System nor to

members of Duval County Employees' Pension Fund as provided in chapter 23259, Acts of 1945, as amended by chapters 27520 and 27523, Acts of 1951.

History.—s. 21, ch. 29801, 1955; s. 1, ch. 63-568; ss. 10, 35, ch. 69-106; s. 791, ch. 95-147.

122.20 Blind vending-stand operators; participation by.—

(1) All blind or partially sighted persons who are now employed or licensed by the Florida Council for the Blind as vending-stand operators or who may hereafter be so licensed or employed are hereby declared to be state employees within the meaning of the State and County Officers and Employees' Retirement System, and except as hereinafter provided shall be entitled to all the rights and benefits of other state employees thereunder.

(2) Blindness shall not be deemed a retireable disability within the provisions of the state and county retirement system for such employees as are contemplated by this section.

(3) Participation in the State Officers and Employees' Retirement System shall be compulsory for all vending-stand operators licensed and employed after June 15, 1953.

History.—s. 22, ch. 29801, 1955; s. 20, ch. 2001-60.

122.21 Activation of division B.—Sections 122.21-122.24, 122.26 to 122.321, inclusive, shall control with respect to division B of this system and membership therein, and shall prescribe the method for activating such division.

History.—s. 2, ch. 57-382.

122.22 Applicable law.—Sections 122.01-122.12, 122.15, 122.16, 122.18 to 122.20, inclusive, in relation to administration of division B and to duties, rights, privileges and benefits of members of this division under this system, shall apply to said division B and membership therein, except to the extent that the provisions of ss. 122.21-122.24, 122.26 to 122.321, inclusive, may be at variance or in conflict therewith.

History.—s. 2, ch. 57-382; s. 23, ch. 2014-17.

122.23 Definitions; ss. 122.21-122.321.—In addition to those definitions set forth in s. 122.02 the following words and phrases used in ss. 122.21-122.24, 122.26 to 122.321, inclusive, have the respective meanings set forth:

(1) "System" means the general retirement system provided by this chapter, with its two divisions.

(2) "Social security coverage" means old age and survivors insurance as provided by the federal Social Security Act.

(3) "Department" means the Department of Management Services.

(4) "Agreement" means the modification of that certain agreement entered into October 23, 1951, between the State of Florida and the Secretary of Health, Education and Welfare, pursuant to s. 650.03, which makes available to members of division B of this system the provisions of said agreement.

(5) "State agency" means the Department of Management Services within the provisions and contemplation of chapter 650.

History.—s. 2, ch. 57-382; s. 1, ch. 65-151; ss. 31, 35, ch. 69-106; s. 40, ch. 71-377; s. 1, ch. 73-326; s. 66, ch. 92-279; s. 55, ch. 92-326; s. 6, ch. 95-154; s. 65, ch. 99-255.

122.24 Membership in division B.—Officers and employees, within the contemplation of this system, may become members of division B of this system in the manner and under circumstances as follows:

(1) An officer or employee who is a member of this system on June 19, 1957, or who becomes such a member after June 19, 1957, and prior to execution of the agreement in pursuance of affirmative referendum as hereinafter provided, may transfer to this division by electing to do so in writing filed with the administrator. While membership in division B shall date from the filing of such election with the administrator, for the purposes of contributions to the system and benefits to members under division B, membership in division B shall take effect upon the date of execution of the agreement.

(2) A person who becomes a member of this system after execution of the agreement shall become a member of division B of the system.

(3)(a) A person who is in a position covered by this system and who is not a member of this system but is eligible to become a member thereof shall, but only for the purposes of subsection 218(d) of the Social Security Act (other than paragraph (8) of said subsection), be regarded as a member of this system. If such person becomes a contributing member of this system after December 31, 1957, he or she shall become a member of division B as required by subsection (2) of this section. In addition he or she may, under the conditions prescribed by s. 218(d)(6)(E) of the Social Security Act, and if still in a position covered by this system, obtain division B coverage effective January 1, 1956, or the date he or she first occupied a position covered by this system, whichever is the later, by filing a written request therefor with the administrator by December 1, 1959, and paying the contributions and interest incident to such coverage.

(b) Under the conditions prescribed by s. 218(d)(6)(F) of the Social Security Act, a person who was a member of division A of this system on December 31, 1957, and who is still such a member,

may transfer to division B of this system by filing a written request therefor with the administrator by December 1, 1959. Social security coverage incidental to such elective membership in division B shall be effective as of January 1, 1956, or the date such person became a member of this system, whichever is the later.

(c) Under conditions prescribed by s. 218(d)(6)(F) of the Social Security Act, any person who was a member of division A of this system on December 31, 1957, and who still is a member of division A, may transfer to division B of this system by filing a written request therefor with the administrator in accordance with, subject to and within the time specified in the agreement or modification thereof between the state and the Secretary of Health, Education and Welfare permitting such transfer. Social security coverage incidental to such elective membership in division B shall be effective as of January 1, 1956, or the date such person became a member of this system, whichever is later, but in no event earlier than the effective date specified in the agreement or modification thereof. All amounts required from a member for retroactive social security coverage shall, at the time such election is made, be deducted from the individual account of the member and the difference between the amount remaining in the individual account of such member and the total amount which such member would have contributed had he or she become a member of division B as of January 1, 1956, shall be paid into the retirement fund, and added to his or her individual account, prior to July 1, 1970, or by his or her date of retirement if earlier. If such payment is made after July 1, 1970, the member shall be required to pay interest at the rate of 10 percent of the unpaid balance compounded annually each June 30 from July 1, 1972, to the date of repayment.

(4) Any highway patrol officer who becomes disabled to the extent that he or she is no longer qualified for the highway patrol and is retired from the highway patrol on account of disability but is able to render useful and efficient service to the state may be employed by the state or a county of the state and upon such employment become a member of the state and county retirement system under division B. Any highway patrol officer who has retired from the highway patrol and is subsequently employed by the state or a county of the state shall be eligible to participate under social security in the same manner as any other state or county employee.

History.—s. 2, ch. 57-382; s. 3, ch. 59-285; s. 4, ch. 65-484; s. 1, ch. 69-215; s. 29, ch. 71-355; s. 1, ch. 72-341; s. 792, ch. 95-147.

122.26 Funds.—There shall be paid into the State and County Officers and Employees' Retirement Trust Fund, provided in former s. 122.17, contributions by members of division B for benefits payable to members under this system, and all amounts appropriated for such purpose by the state.

History.—s. 2, ch. 57-382; s. 2, ch. 61-119; s. 13, ch. 2004-234.

122.27 Contributions.—From and after the date of the execution of the agreement, the officer or board paying the salary of a member of division B shall withhold the following from such salary:

(1) Four percent of such salary, which shall constitute the contribution of the member to this system with respect to retirement and other benefits payable under this system. The officer or board so withholding such percentage of salary shall without delay deposit the same in the State and County Officers and Employees' Retirement Trust Fund.

(2) The percentage of such salary, which shall constitute the contribution of the member required for social security coverage as now or hereafter fixed by relevant federal statutes. The officer or board so withholding such percentage of salary shall submit the same without delay to the Internal Revenue Fund as directed by the Social Security Administration.

(3) Any contributions made by a member of division B during the calendar years 1956 and 1957, for state and county retirement contributions, in excess of 4 percent of the member's total salary shall be returned to the member on the effective date of the member's retirement or applied to any shortage which may exist in the member's retirement account.

History.—s. 2, ch. 57-382; s. 4, ch. 59-285; s. 2, ch. 61-119; s. 14, ch. 2004-234.

122.28 Benefits.—The relevant provisions of ss. 122.01-122.12, 122.15, 122.16, 122.18 to 122.20, inclusive, fixing or relating to eligibility for retirement, retirement compensation, and other benefits payable to members or for the account of members of this system in relation to members in division A hereof, shall apply with equal force and effect to members of division B, with the following exceptions:

(1) For the period of service of the member prior to the effective date of his or her social security coverage hereunder, retirement benefits shall be computed on average final compensation at the rate of 2 percent for each year of service rendered prior to such effective date and as provided in s. 122.08. For the period of membership in division B the member's retirement compensation shall be computed on average final compensation at the rate of 1.5 percent for each year of service rendered after the effective date of said social security coverage.

(2) Members of division B retiring under the disability provisions of this chapter shall receive not less than 20 percent of their average final compensation.

(3) For those persons who become members of the retirement system on or after July 1, 1963, the amount of such retirement compensation shall not exceed that amount which when added to the member's estimated annual primary insurance amount under social security coverage equals 80 percent of his or her average final compensation. The estimated annual primary insurance amount of the member shall be determined by the administrator on the basis of the social security coverage in effect on the member's retirement date, assuming that payment of such primary insurance amount shall commence at the later of the member's 65th birthday or actual age of retirement, and that the member earned his or her average final compensation in each year between the date of retirement and his or her 65th birthday for those members retiring prior to age 65.

History.—s. 2, ch. 57-382; s. 5, ch. 63-555; s. 793, ch. 95-147; s. 24, ch. 2014-17.

122.29 Records and reports.—The administrator shall maintain accurate accounts of each member of division B; and shall maintain said accounts in such manner, form and detail as shall meet the requirements of the federal Social Security Act and regulations in relation to the social security coverage of such member. The administrator shall from time to time make such reports as may be required by relevant federal laws and regulations relating to the social security coverage of the members of this system.

History.—s. 2, ch. 57-382.

122.31 Future amendments.—Where in this law reference is made to state and federal laws, it shall be understood that such references are intended to include such laws as they now exist or may hereafter be amended.

History.—s. 2, ch. 57-382.

122.32 Repealer.—It is the legislative intent that members of this system be provided with social security coverage only in pursuance of the method prescribed herein for becoming members of division B, anything in chapter 650 to the contrary notwithstanding, provided however that the officials and employees of any county or counties which have prior to June 19, 1957, elected to accept social security under the provisions of chapter 650 shall not be affected hereby; provided further, all present and future employees of such counties shall remain in or become members of division A as provided in s. 122.01 of the State and County Officers and Employees' Retirement

System; and chapter 29968, Acts of 1955, chapter 410, Florida Statutes, are hereby repealed; and provided, that nothing contained in the provisions of this law shall repeal or in any way affect chapter 23259, Laws of 1945, as amended.

History.—s. 2, ch. 57-382.

122.321 County officers and employees; division B.—Effective July 1, 1969, the provisions of s. 122.32 relative to future officials and employees of any county which elected to accept social security under the provisions of chapter 650 prior to June 19, 1957, shall be of no further force and effect. On and after July 1, 1969, all new and future officers and employees of any county coming under the provisions of s. 122.32 shall become members of division B unless some new consolidated state retirement system becomes effective on that date.

History.—s. 1, ch. 69-129; s. 44, ch. 73-333.

122.34 Special provisions for certain sheriffs and full-time deputy sheriffs.—

(1)(a) In addition to sheriffs and full-time deputy sheriffs, the provisions of this section shall apply with respect to members who are officers or full-time employees of the state or the several counties of the state whose duties are to enforce the criminal laws of the state, except for those officers or full-time employees holding office or employed on or before July 1, 1963, who were then 55 years old or older and who elected in writing, and filed with the Comptroller within 90 days after July 1, 1963, their rejection to this section and except those officers or full-time employees, excluding present high hazard members, holding office or employed on or before July 1, 1967, who are then 55 years old or older and who elect in writing, filed with the Comptroller within 90 days after July 1, 1967, to reject this section, and such members who do not so elect to reject this section hereinafter shall be referred to as "high hazard" members.

(b) Only those members who are full-time criminal law enforcement officers or agents, as certified by the employing authority, who perform duties according to rule, order, or established custom as full-time criminal law enforcement officers or agents shall be certified to the department as high hazard members, and only such members will be approved by the department.

(2) All high hazard members shall contribute 2.5 percent of each installment of salary, to the State and County Officers and Employees' Retirement Trust Fund, which percentage shall be in addition to the percentage required in s. 122.03, or in s. 122.27 whichever is applicable.

(3) Any high hazard member who has been classified within the contemplation of this section as a

“high hazard” member for the last 10 years or more of his or her employment and who is serving as a high hazard member, and who has made the additional contributions to the State and County Officers and Employees’ Retirement Trust Fund provided in subsection (2) for a period of not less than 5 years or who makes total additional contributions in amount equal to 5 years of additional contribution based on his or her then-current rate of salary, may retire under s. 122.08(1) or s. 122.28, whichever is applicable, if the high hazard member has attained normal retirement age which shall be 55 for persons who had become a member prior to July 1, 1963, and age 57 for persons who had or shall become a member on or after July 1, 1963. For the purpose of estimating the annual primary insurance amount under social security coverage under s. 122.28(3) for such high hazard member, the administrator shall estimate the primary insurance amount as the amount the member shall be entitled to receive at the later of age 62 or the member’s retirement age.

(4) Any high hazard member within the contemplation of this section who has been classified as a “high hazard” member for the last 8 years or more of his or her employment, who is serving as a high hazard member, and who has made the additional contributions to the State and County Officers and Employees’ Retirement Trust Fund provided in subsection (2) for a period of not less than 5 years or who makes total contributions in amount equal to 5 years of contributions based on his or her then-current rate of earnings may retire under s. 122.08(2)(b) or s. 122.28, whichever is applicable, if the high hazard member has attained the age of 50 years or more and is not eligible to retire in accordance with the provisions of subsection (3).

(5) Any high hazard member who becomes eligible to retire under any other section of this chapter shall not receive a refund of the additional 2.5-percent contributions provided for in this section unless he or she requests in writing to the division a lump-sum refund of all his or her contributions to the State and County Officers and Employees’ Retirement Trust Fund in lieu of monthly retirement benefits. However, any high hazard member who changes position or is reclassified or otherwise becomes ineligible for classification as a “high hazard” member for any reason before retiring, or before becoming eligible to retire under any other section of this chapter shall lose all benefits under this section and may receive a refund of the additional 2.5-percent contribution without interest or leave the additional 2.5-percent contribution in the State and County Officers and Employees’ Retirement Trust Fund pending reclassification as a “high hazard” member; provided further, should any

member receive a refund and be reinstated as a high hazard member, he or she shall pay into the State and County Officers and Employees’ Retirement Trust Fund the full amount refunded plus 3 percent interest compounded annually from date of refund until July 1, 1975, and thereafter at the rate of 6.5 percent interest compounded annually to date of repayment. Should such member apply for another refund before such payment is made, the interest on the first refund shall be deducted from the second refund, interest to be figured from date of first refund through date of second application for refund, at 3 percent interest compounded annually until July 1, 1975, and thereafter at the rate of 6.5 percent interest compounded annually.

(6)(a) The surviving spouse of any high hazard member hereafter killed in the line of duty shall receive a monthly pension equal to one-half the monthly salary drawn by the deceased member at the time of death for the rest of his or her life, unless he or she remarries, in which case the pension shall terminate at the date of the remarriage.

(b) Any sums of money which would have accrued to such surviving spouse had he or she lived until the 18th birthday of such high hazard member’s youngest child shall accrue, share and share alike, for the use and benefit of such member’s child or children under 18 years of age and unmarried during such minority. Such sums, as the same would have accrued to such surviving spouse, shall be paid to the legal guardian of the estate of such child or children, or either of them, during such minority to age 18 years.

(c) In determining the amount of pension to be received under this section, the benefits received in the form of workers’ compensation and social security shall be considered, and the total monthly compensation shall not exceed one-half of the salary received by the deceased high hazard member at the time of death. Should such total compensation exceed one-half of the monthly salary drawn by the deceased member at the time of death, the pension herein provided for shall be reduced by the amount of such excess.

(7) Any high hazard member who becomes totally disabled as a result of occupation while in the performance of duty shall be retired and shall receive, in addition to the award made to him or her under the Workers’ Compensation Law, an annual pension payable monthly in an amount equal to not less than 45 percent of the annual salary of the member at the time of his or her disability, and he or she shall continue to receive the said pension so long as such disability exists.

(8) Any high hazard member who becomes partially disabled as a result of occupation while in the performance of duty shall be retired and shall receive,

in addition to the award made to him or her under the Workers' Compensation Law, an annual pension payable monthly in an amount equal to not less than 35 percent of the annual salary of the member at the time of his or her disability, and he or she shall continue to receive the said pension so long as such disability exists.

(9) The term "total disability" shall be construed to mean any high hazard member who has been declared permanently totally disabled under the provisions of chapter 440 as a result of occupation while in the performance of duty.

(10) The term "partial disability" shall be construed to mean any high hazard member who has been declared permanently partially disabled under the provisions of chapter 440 as a result of occupation while in the performance of duty.

(11) No high hazard member shall be permitted to receive benefits under this section until examined by a duly qualified physician or surgeon, or board of physicians and surgeons, to be selected by the Governor for that purpose, and found to be disabled in the degree and in the manner specified in this section. At such time as the Department of Management Services directs, any high hazard member receiving disability benefits under this section shall submit to a medical examination to determine if such disability has continued, and the cost of such examination shall be paid from the retirement trust fund herein provided for; and in the event it is declared by said examination that said disability has cleared, such member shall be ordered to return to active duty with the same rank and salary that he or she had at the time of disability. Any such member who shall fail to return to duty following such order shall forfeit all rights and claims under this law. Every high hazard member retiring under this provision shall be paid so long as the member's permanent total or partial disability continues, on his or her own requisition.

History.—s. 6, ch. 63-555; ss. 6, 7, ch. 65-484; ss. 1, 2, ch. 67-193; ss. 2, 3, ch. 67-371; s. 1, ch. 69-347; ss. 31, 35, ch. 69-106; s. 1, ch. 73-326; s. 7, ch. 74-328; s. 1, ch. 77-174; s. 59, ch. 79-40; s. 67, ch. 92-279; s. 55, ch. 92-326; s. 794, ch. 95-147; s. 7, ch. 95-154; s. 67, ch. 99-255; s. 3, ch. 2018-112.

122.35 Funding.—

(1) Commencing July 1, 1967, for all state agencies and commencing October 1, 1967, for all other agencies with employees who are members under this chapter, former ss. 122.17 and 122.30(4) shall be of no further force and effect and each officer or board paying salaries to members and withholding contributions required of members under this chapter for purposes of providing retirement benefits and social security benefits to or on behalf of such members, shall budget, set aside and pay over to account B of the

¹Intangible Tax Trust Fund, herein created, matching payments in the following specified amounts:

(a)1. An amount equal to the amount of member contributions paid to the State and County Officers and Employees' Retirement Trust Fund as specified in ss. 122.03 and 122.27 but excluding any additional contributions required of high hazard members under s. 122.34; and

2. Commencing January 1, 1993, an additional amount equal to 3.99 percent of each installment of salary to members; and

(b) An amount equal to the amount of member social security contributions withheld, to be paid to the Internal Revenue Service as specified in s. 122.27.

(2) The monthly payments required by subsection (1) shall be payable within 10 days after the first day of each calendar month after July 1, 1967, for all state agencies and October 1, 1967, for all other agencies. The state funds required to be paid hereunder shall be provided and paid from the sources as set forth in subsection (3).

(3) The appropriations provided each state agency each fiscal year shall include sufficient amounts to pay the matching contributions for social security and retirement as required by this section and the matching contributions for retirement required of state agencies under s. 238.11(1)(a). No state agency, whether its funds are provided by state appropriation or not, shall employ any person or maintain any person on its payroll unless it has allotted for such person sufficient funds to meet these required payments.

(4) Effective December 1, 1970, officer and employee contributions and employer matching contributions required by division A and division B of this chapter shall be paid as required in accordance with s. 121.061 and procedures established therefor.

(5) Effective January 1987, social security contributions withheld on behalf of a member of division B of this chapter and employer matching social security contributions paid on behalf of such member shall be submitted to the Internal Revenue Service as required by the Social Security Administration.

History.—s. 8, ch. 63-555; s. 1, ch. 67-411; ss. 2, 3, ch. 67-371; ss. 21, 31, 35, ch. 69-106; s. 1, ch. 69-300; s. 8, ch. 69-353; s. 40, ch. 77-104; s. 2, ch. 92-139; s. 8, ch. 93-262; s. 795, ch. 95-147; s. 144, ch. 2003-261; s. 16, ch. 2004-234.

¹**Note.**—The Intangible Tax Trust Fund was terminated by s. 1, ch. 2004-234.

122.355 Statements of purpose and intent and other provisions required for qualification under the Internal Revenue Code of the United States.—Any other provisions in this chapter to the contrary notwithstanding, it is specifically provided that:

(1) The purpose of this chapter is to provide pension benefits for the exclusive benefit of the member employees or their beneficiaries.

(2) No part of the principal or income of the trust fund created hereunder shall be used or diverted for purposes other than for the exclusive benefit of the member employees or their beneficiaries and for the payment of administrative cost.

(3) Forfeitures, if any, shall not be applied to increase the benefits any member employee would otherwise receive under this chapter.

(4) Upon termination or partial termination, upon discontinuance of contributions, abandonment, or merger, or upon consolidation or amendment of this chapter, the rights of all affected employees to benefits accrued as of the date of any of the foregoing events, or the amounts credited to the account of any member employee, shall be and continue thereafter to be nonforfeitable except as otherwise provided by law.

(5) No benefit hereunder shall exceed the maximum amount allowable by law for qualified pension plans under existing or hereafter-enacted provisions of the Internal Revenue Code of the United States.

(6) The compensation limits established by s. 401(a)(17) of the Internal Revenue Code prior to the Omnibus Budget Reconciliation Act of 1993, and adjusted for changes in the cost of living since 1989, in the manner provided by s. 401(a)(17) of the Internal Revenue Code of 1991, were part of the State and County Officers' and Employees' Retirement System on July 1, 1993.

(7) Except as otherwise provided herein, the provisions of this section are declaratory of the legislative intent upon the original enactment of this chapter and are hereby deemed to have been in effect from such date.

History.—s. 1, ch. 78-108; s. 13, ch. 96-368.

